

AMENDED IN ASSEMBLY MARCH 29, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2886

Introduced by Committee on Insurance (Assembly Members Daly (Chair), Melendez, Travis Allen, Bigelow, Calderon, Chu, Cooley, Cooper, Dababneh, Frazier, Gatto, Gonzalez, and Rodriguez)

February 25, 2016

An act to ~~amend Section 2707.2 and 2737 of~~ *amend, repeal, and add Sections 2707.2, 2707.4, and 2737 of, to add Section 2707.8 to, and to add and repeal Sections 2707.7 and 2737.5 of,* the Unemployment Insurance Code, relating to disability compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2886, as amended, Committee on Insurance. Disability benefits: eligibility determinations: *benefit computations*: overpayment determinations: appeals.

Existing law authorizes the Employment Development Department to administer the disability compensation program, which provides for the partial compensation for the wage losses suffered by eligible individuals unemployed because of sickness or injury. Existing law requires, after a claim for benefits is filed, the department to determine the eligibility of the claimant for benefits and to notify the claimant of the determination. Existing law allows the claimant to appeal to an administrative law judge within 20 days from mailing or personal service of the ~~determination notice~~. *determination, which may be extended for good cause.*

This bill would provide that, before March 1, 2018, any individual who submits an appeal to an administrative law judge within 30 days from the mailing or personal service of the determination has good

cause to extend the 20-day period. The bill would, commencing March 1, 2018, extend that appeal period to within 30 days from mailing or personal service of the determination notice.

Existing law generally requires, upon the filing of a claim for disability benefits, the Employment Development Department to promptly make a computation on the claim setting forth the maximum amount of benefits potentially payable during the disability benefit period and the weekly benefit amount and to promptly notify the claimant of the computation. Existing law allows the claimant to, within 20 days after the mailing or personal service of the notice of computation or recomputation, protest the accuracy of the computation or recomputation, requires the department to consider any protest and notify the claimant of the recomputation or denial of recomputation, and allows the claimant to appeal to an administrative law judge within 20 days from mailing or personal service of the notice of denial of recomputation, which may be extended for good cause.

This bill would provide that, before March 1, 2018, any individual who submits an appeal to an administrative law judge within 30 days from the mailing or personal service of the notice has good cause to extend the 20-day period. The bill would, commencing March 1, 2018, extend that period allowed to the claimant to protest the accuracy of the computation or recomputation to the department to within 30 days of the mailing or personal service of the notice. The bill would also, commencing March 1, 2018, extend the appeal period to the administrative law judge to within 30 days from mailing or personal service of the notice of denial of recomputation.

Under existing law, any person who receives an overpayment of disability benefits is liable for the amount overpaid unless specified conditions apply. Existing law requires the Director of Employment Development to determine the amount of the overpayment and to notify the recipient of the basis of the overpayment determination by mail or personal service, as provided. Existing law allows the person affected to file an appeal to an administrative law judge within 20 days from the date of mailing or serving of the notice of overpayment determination. Existing law requires, after affording reasonable opportunity for a fair hearing, the administrative law judge to make a decision regarding the findings set forth in the overpayment determination notice, and requires that decision to be final unless within 20 days from the date of notification or mailing of the judge's decision a further appeal is initiated to the California Unemployment Insurance Appeals Board, as specified.

This bill would provide that, before March 1, 2018, any individual who submits an appeal to an administrative law judge within 30 days from the mailing or personal service of the notice has good cause to extend the 20-day period. The bill ~~would~~ would, commencing March 1, 2018, extend that appeal period to the administrative law judge to within 30 days of mailing or serving of the determination notice. The bill ~~would also~~ also, commencing March 1, 2018, extend the appeal period to the appeals board to within 30 days from the date of notification or mailing of the administrative law judge's decision.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2707.2 of the Unemployment Insurance
2 Code is amended to read:
3 2707.2. (a) The department shall consider the facts submitted
4 by the employer pursuant to Section 2707.1 and make a
5 determination as to the eligibility of the claimant for benefits. The
6 department shall promptly notify the claimant of the determination
7 and the reasons therefor. The claimant may appeal therefrom to
8 an administrative law judge within 20 days from mailing or
9 personal service of the notice of determination. The 20-day period
10 may be extended for good cause. The director shall be an interested
11 party to any appeal.
12 ~~“Good~~
13 (b) “Good cause,” as used in this section, shall include, but not
14 be limited to, mistake, inadvertence, surprise, or excusable neglect.
15 (c) This section shall remain in effect only until March 1, 2018,
16 and as of that date is repealed.
17 SEC. 2. Section 2707.2 is added to the Unemployment
18 Insurance Code, to read:
19 2707.2. (a) The department shall consider the facts submitted
20 by the employer pursuant to Section 2707.1 and make a
21 determination as to the eligibility of the claimant for benefits. The
22 department shall promptly notify the claimant of the determination
23 and the reasons therefor. The claimant may appeal therefrom to
24 an administrative law judge within 30 days from mailing or
25 personal service of the notice of determination. The 30-day period

1 *may be extended for good cause. The director shall be an interested*
2 *party to any appeal.*

3 *(b) "Good cause," as used in this section, shall include, but not*
4 *be limited to, mistake, inadvertence, surprise, or excusable neglect.*

5 *(c) This section shall become operative on March 1, 2018.*

6 *SEC. 3. Section 2707.4 of the Unemployment Insurance Code*
7 *is amended to read:*

8 *2707.4. (a) The claimant may, within 20 days after the mailing*
9 *or personal service of the notice of computation or recomputation,*
10 *protest the accuracy of the computation or recomputation. The*
11 *20-day period may be extended for good cause. The department*
12 *shall consider any such protest and shall promptly notify the*
13 *claimant of the recomputation or denial of recomputation. The*
14 *claimant may appeal from a notice of denial of recomputation in*
15 *the manner prescribed in Section ~~2707.2~~ 2707.2. The director*
16 *shall be an interested party to any appeal.*

17 *"Good*

18 *(b) "Good cause," as used in this section, shall include, but not*
19 *be limited to, mistake, inadvertence, surprise, or excusable neglect.*

20 *(c) This section shall remain in effect only until March 1, 2018,*
21 *and as of that date is repealed.*

22 *SEC. 4. Section 2707.4 is added to the Unemployment*
23 *Insurance Code, to read:*

24 *2707.4. (a) The claimant may, within 30 days after the mailing*
25 *or personal service of the notice of computation or recomputation,*
26 *protest the accuracy of the computation or recomputation. The*
27 *30-day period may be extended for good cause. The department*
28 *shall consider any such protest and shall promptly notify the*
29 *claimant of the recomputation or denial of recomputation. The*
30 *claimant may appeal from a notice of denial of recomputation in*
31 *the manner prescribed in Section 2707.2. The director shall be an*
32 *interested party to any appeal.*

33 *(b) "Good cause," as used in this section, shall include, but not*
34 *be limited to, mistake, inadvertence, surprise, or excusable neglect.*

35 *(c) This section shall become operative on March 1, 2018.*

36 *SEC. 5. Section 2707.7 is added to the Unemployment*
37 *Insurance Code, to read:*

38 *2707.7. (a) Notwithstanding Sections 2707.2 and 2707.4, any*
39 *individual who submits an appeal under one or more of those*
40 *sections to an administrative law judge within 30 days from mailing*

1 *or personal service of the applicable notice shall be considered*
2 *to have good cause to extend the 20-day period.*

3 *(b) This section shall remain in effect only until March 1, 2018,*
4 *and as of that date is repealed.*

5 SEC. 6. Section 2707.8 is added to the Unemployment
6 Insurance Code, to read:

7 2707.8. (a) An administrative law judge, after affording a
8 reasonable opportunity for fair hearing, shall, unless the appeal
9 is withdrawn, affirm, reverse, modify, or set aside any
10 determination that is appealed under this article. The claimant
11 and the director shall be promptly notified in writing of the
12 administrative law judge's decision, together with reasons for the
13 decision. The decision shall be final unless, within 30 days after
14 mailing of the decision, further appeal is initiated to the appeals
15 board pursuant to Section 1336. The 30-day limitation may be
16 extended for good cause.

17 (b) "Good cause," as used in this section, shall include, but not
18 be limited to, mistake, inadvertence, surprise, or excusable neglect.

19 SEC. 7. Section 2737 of the Unemployment Insurance Code is
20 amended to read:

21 2737. (a) Within 20 days from the date of mailing or serving
22 of the notice of overpayment determination, the person affected
23 may file an appeal to an administrative law judge. The director
24 shall be an interested party to any such appeal. The administrative
25 law judge, after affording reasonable opportunity for a fair hearing,
26 ~~shall~~ shall, unless the appeal is withdrawn, affirm, reverse, modify,
27 or set aside the findings set forth in the notice of overpayment
28 determination. The party and the director shall be notified of the
29 administrative law judge's decision, together with his *or her*
30 reasons therefor, which shall be final unless within 20 days from
31 the date of notification or mailing of the decision a further appeal
32 is initiated to the appeals board pursuant to Section 1336. The
33 20-day period for an appeal to the administrative law judge or to
34 the appeals board may be extended for good cause.

35 "Good

36 (b) "Good cause," as used in this section, shall include, but not
37 be limited to, mistake, inadvertence, surprise, or excusable neglect.

38 (c) *This section shall remain in effect only until March 1, 2018,*
39 *and as of that date is repealed.*

1 SEC. 8. Section 2737 is added to the Unemployment Insurance
2 Code, to read:

3 2737. (a) Within 30 days from the date of mailing or serving
4 of the notice of overpayment determination, the person affected
5 may file an appeal to an administrative law judge. The director
6 shall be an interested party to any such appeal. The administrative
7 law judge, after affording reasonable opportunity for a fair
8 hearing, shall, unless the appeal is withdrawn, affirm, reverse,
9 modify, or set aside the findings set forth in the notice of
10 overpayment determination. The party and the director shall be
11 notified of the administrative law judge's decision, together with
12 his or her reasons therefor, which shall be final unless within 30
13 days from the date of notification or mailing of the decision a
14 further appeal is initiated to the appeals board pursuant to Section
15 1336. The 30-day period for an appeal to the administrative law
16 judge or to the appeals board may be extended for good cause.

17 (b) "Good cause," as used in this section, shall include, but not
18 be limited to, mistake, inadvertence, surprise, or excusable neglect.

19 (c) This section shall become operative on March 1, 2018.

20 SEC. 9. Section 2737.5 is added to the Unemployment
21 Insurance Code, to read:

22 2737.5. (a) Notwithstanding Section 2737, any individual who
23 submits an appeal under that section to an administrative law
24 judge within 30 days from mailing or personal service of the notice
25 of overpayment determination shall be considered to have good
26 cause to extend the 20-day period.

27 (b) This section shall remain in effect only until March 1, 2018,
28 and as of that date is repealed.

29 SECTION 1. ~~Section 2707.2 of the Unemployment Insurance~~
30 ~~Code is amended to read:~~

31 ~~2707.2. The department shall consider the facts submitted by~~
32 ~~the employer pursuant to Section 2707.1 and make a determination~~
33 ~~as to the eligibility of the claimant for benefits. The department~~
34 ~~shall promptly notify the claimant of the determination and the~~
35 ~~reasons therefor. The claimant may appeal therefrom to an~~
36 ~~administrative law judge within 30 days from mailing or personal~~
37 ~~service of the notice of determination. The 30-day period may be~~
38 ~~extended for good cause. The director shall be an interested party~~
39 ~~to any appeal.~~

1 ~~“Good cause,” as used in this section, shall include, but not be~~
2 ~~limited to, mistake, inadvertence, surprise, or excusable neglect.~~

3 ~~SEC. 2. Section 2737 of the Unemployment Insurance Code~~
4 ~~is amended to read:~~

5 ~~2737. Within 30 days from the date of mailing or serving of~~
6 ~~the notice of overpayment determination, the person affected may~~
7 ~~file an appeal to an administrative law judge. The director shall~~
8 ~~be an interested party to any such appeal. The administrative law~~
9 ~~judge, after affording reasonable opportunity for a fair hearing,~~
10 ~~shall unless the appeal is withdrawn, affirm, reverse, modify, or~~
11 ~~set aside the findings set forth in the notice of overpayment~~
12 ~~determination. The party and the director shall be notified of the~~
13 ~~administrative law judge’s decision, together with his reasons~~
14 ~~therefor, which shall be final unless within 30 days from the date~~
15 ~~of notification or mailing of the decision a further appeal is initiated~~
16 ~~to the appeals board pursuant to Section 1336. The 30-day period~~
17 ~~for an appeal to the administrative law judge or to the appeals~~
18 ~~board may be extended for good cause.~~

19 ~~“Good cause,” as used in this section, shall include, but not be~~
20 ~~limited to, mistake, inadvertence, surprise, or excusable neglect.~~